

**House File 540 - Reprinted**

HOUSE FILE 540  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 92)

(As Amended and Passed by the House March 15, 2011)

**A BILL FOR**

- 1 An Act creating the health care professional lien Act.
- 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 582A.1 Short title.

2 This Act may be cited as the "*Health Care Professional Lien*  
3 *Act*".

4 Sec. 2. NEW SECTION. 582A.2 Definitions.

5 As used in this chapter, unless the context otherwise  
6 requires:

7 1. "*Health care professional*" means a person licensed  
8 pursuant to chapter 148, 148A, 148C, 149, 151, or 153, or an  
9 advanced registered nurse practitioner licensed under chapter  
10 152 and registered with the board of nursing.

11 2. "*Health insurance*" means benefits consisting of  
12 health or dental care provided directly, through insurance,  
13 reimbursement, or otherwise, and including items and services  
14 paid for as health care under a hospital or health service  
15 policy or certificate, hospital or health service plan  
16 contract, or health maintenance organization contract offered  
17 by a carrier, including limited scope dental benefits provided  
18 under a separate policy; provided however, "*health insurance*"  
19 does not include any of the following:

20 a. Coverage for accident-only, or disability income  
21 insurance.

22 b. Coverage issued as a supplement to liability insurance.

23 c. Liability insurance, including general liability  
24 insurance and automobile liability insurance.

25 d. Workers' compensation or similar insurance.

26 e. Automobile medical-payment insurance.

27 f. Credit-only insurance.

28 g. Coverage for on-site medical clinic care.

29 h. Benefits covering only long-term care, nursing home care,  
30 home health care, or community-based care.

31 i. Limited scope vision benefits provided under a separate  
32 policy.

33 j. Coverage only for a specified disease or illness.

34 k. A hospital indemnity or other fixed indemnity insurance.

35 l. Other similar insurance coverage, as specified in federal

1 regulations or by rule of the commissioner of insurance, under  
2 which benefits for medical care are secondary or incidental to  
3 other insurance coverage or provide for coverage of limited  
4 scope benefits other than limited scope dental benefits.

5 Sec. 3. NEW SECTION. 582A.3 Lien created.

6 1. Every health care professional who renders any service  
7 in the treatment, care, or maintenance of any injured patient  
8 shall have a lien upon all claims and causes of action  
9 of the injured patient for the amount of the health care  
10 professional's charges up to the date of payment of damages to  
11 the injured patient, if the injured patient meets the following  
12 requirements:

13 a. The patient's injuries are due to an accident or  
14 intentional act by a third party, which is not covered by the  
15 workers' compensation Act in chapter 85, 85A, or 85B.

16 b. Either of the following:

17 (1) The patient does not have health insurance.

18 (2) The patient's health insurance carrier has denied  
19 payment for services provided by the health care professional  
20 and the health care professional is not prohibited from  
21 pursuing payment from the patient under the terms of any  
22 agreement between the health care professional and the  
23 patient's health insurance carrier.

24 2. The injured patient or the injured patient's legal  
25 representative or attorney shall notify the health care  
26 professional at the time services are rendered, or as soon  
27 as practicable thereafter, that the patient's injuries were  
28 sustained in an accident or were the result of an intentional  
29 act by a third party. In addition, the notification shall  
30 include the date of the accident or intentional act, the  
31 persons, entities, or insurers allegedly liable for the injured  
32 patient's damages, and the name and contact information for the  
33 injured patient's attorney or legal representative, if any.

34 Sec. 4. NEW SECTION. 582A.4 Written notice of lien.

35 A lien shall not be effective unless a written notice

1 containing the name and address of the injured patient, the  
2 date of the accident or intentional act, the name and address  
3 of the health care professional, and the name of the party  
4 allegedly liable for the injured patient's damages is served on  
5 both the injured patient and the party against whom the claim  
6 or right of action exists. Service shall be made by certified  
7 mail or restricted certified mail, as defined in section  
8 618.15, or in person. A copy of the notice shall be mailed  
9 to the injured patient's attorney or legal representative  
10 provided the patient has previously provided the health  
11 care professional with the name and address of the patient's  
12 attorney or legal representative.

13 Sec. 5. NEW SECTION. **582A.5 Lien payments.**

14 Payments under the lien created under this chapter shall be  
15 made directly to the health care professional.

16 Sec. 6. NEW SECTION. **582A.6 Items to which lien attaches**  
17 **— enforcement.**

18 1. A health care professional's lien under this chapter  
19 shall, from and after the time of the service of the lien  
20 notice, attach to any verdict, judgment, award, settlement,  
21 or compromise secured by or on behalf of the injured  
22 patient related to the injuries treated by the health care  
23 professional. If the verdict, judgment, award, settlement, or  
24 compromise is to be paid over time by means of an annuity or  
25 otherwise, any lien under this chapter shall be satisfied by  
26 the party obligated to compensate the injured patient before  
27 the establishment of the annuity or other extended payment  
28 mechanism.

29 2. a. A settlement made by and between the patient and  
30 the persons, entities, or insurers allegedly liable for the  
31 injured patient's damages shall not discharge the lien against  
32 any money due or owing by such person, entity, or insurer to  
33 the patient or relieve the person, entity, or insurer from  
34 liability by reason of such lien unless any of the following  
35 apply:

1     *b.* The settlement also provides for the payment and  
2 discharge of such lien.

3     *c.* A written release or waiver of any such claim of lien  
4 is signed by the health care professional and either of the  
5 following apply:

6       (1) The written release or waiver is filed in the court  
7 where an action has been commenced against the persons,  
8 entities, or insurers allegedly liable for the injured  
9 patient's damages.

10      (2) The written release or waiver is delivered by certified  
11 mail or restricted certified mail, as defined in section  
12 618.15, or in person to such persons, entities, or insurers  
13 allegedly liable for the injured patient's damages, if no court  
14 action has been commenced against the persons, entities, or  
15 insurers allegedly liable for the injured patient's damages.

16      3. *a.* After the filing and mailing of a health care  
17 professional's lien notice, any person, entity, or insurer  
18 who makes any payment to an injured patient or to the injured  
19 patient's attorneys, heirs, or legal representatives as  
20 compensation for the injury sustained from the accident or  
21 intentional act without paying the health care professional  
22 the amount of the health care professional's lien recoverable  
23 pursuant to section 582A.3, or so much thereof as can be  
24 satisfied out of the money due under any final judgment or  
25 compromise or settlement agreement, shall, for a period of one  
26 year from the date of payment to such patient or the patient's  
27 heirs, attorneys, or legal representatives, be liable to such  
28 health care professional for the amount of the health care  
29 professional's outstanding lien. The health care professional  
30 may, within such one-year period, enforce the lien by filing an  
31 action at law against such person, entity, or insurer making  
32 any such payment.

33      *b.* In any action filed by a health care professional  
34 pursuant to paragraph "a" to enforce the lien, the health care  
35 professional shall be entitled to recover reasonable attorney

1 fees and the costs of any such action.

2 4. In the case of multiple claims to payments filed under  
3 this chapter and chapter 582, priority shall be given to  
4 hospital liens filed pursuant to chapter 582.